



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCB/156262

PRELIMINARY RECITALS

Pursuant to a petition filed March 24, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on April 29, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services correctly denied Petitioner's request to back date her son's BadgerCare+ benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jose Silvestre, Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On August 29, 2013, the Petitioner submitted an ACCESS application to apply for health care benefits. (Exhibit 4, pgs. 9-24)
3. On September 4, 2013, the agency sent the Petitioner a Notice of Action and Proof Needed asking the Petitioner to pay her BadgerCare Plus premium and to provide income verification. Both were due on September 30, 2013. The notice further advised the Petitioner that if she did not pay the premium or

- provide the requested verification, benefits could be denied, decreased or ended. (Exhibit 4, pgs. 40-47)
4. On September 30, 2013, the Petitioner faxed her pay stubs to the agency; the date received by the agency is on the right side of the pages printed by the agency and on the fax time stamp at the bottom of the pages. (Exhibit 4, pgs. 8 and 28-31; Petitioner's testimony; Exhibits 2 and 3)
 5. The agency manually stamped the aforementioned documents as received on October 3, 2013. (Id.)
 6. On October 1, 2013, the agency sent the Petitioner a notice indicated that her application for health care benefits was denied because she did not provide the requested verification. (Exhibit 4, pgs. 48-52)
 7. On October 3, 2013, the Petitioner called the agency to inquire about her benefits and she re-faxed her paystubs. The date received by the agency is on the upper left side of the printed pages. (Exhibit 4, pgs. 8 and 32-36; Testimony of Petitioner)
 8. Petitioner's case was pended so the agency could obtain verification of access to health insurance from her employer. (Exhibit 4, pg. 8)
 9. On December 4, 2013, the Petitioner contacted the agency to inquire about her benefits and, "a new request for HC with a 3 month back date was completed". (Exhibit 4, pgs. 2 and 8)
 10. On December 11, 2013, the agency sent Petitioner a notice indicating that her son would have health care benefits effective December 1, 2013 and that as of January 1, 2014, he would need to pay a premium of \$10.00 a month. (Exhibit 4, pgs. 74-79)
 11. The Petitioner contacted the agency again on March 3, 2014 to ask why benefits for her son were not backdated to August 2013 and was informed that it was because she submitted her verifications late. (Exhibit 4, pg. 8)
 12. The Petitioner filed a request for fair hearing that was received on March 24, 2014. (Exhibit 1)
 13. Petitioner's son is 12 years old. (Exhibit 4, pg. 5)

DISCUSSION

Generally speaking, "BC+ [Badger Care Plus] eligibility begins the first day of the month in which the valid application is submitted and all eligibility requirements are met." *Badger Care+ Eligibility Handbook (BEH)* 25.8. However, children ages 6-18 years-old, who are determined eligible for BadgerCare+, may be deemed eligible the first of the month, up to three calendar months prior to the month of application, for any month in which their family income was at or below 150% FPL [Federal Poverty Level], if the new application was completed prior to December 31, 2013. *BEH* 25.8.1

In the case at hand, the month of application was August 2013. Petitioner's son is 12 years-old. As such, he could have his benefits backdated to May 2013, so long as the household income was below 150% FPL. However, the Petitioner only seeks a backdate for the full month of August 2013.

During the hearing, the agency asserted that the Petitioner's son could not have benefits backdated to August 2013, because Petitioner did not timely submit income verification by September 30, 2013. Looking at the date received that was printed by the agency's machines, it is clear that the Petitioner did, in fact, timely submit income verification on September 30, 2013.

However, when Petitioner submitted her proof of income, it was for the month of September 2013. Consequently, the agency will have to request proof of income for August 2013. If the household income was below 150% FPL, then the child's benefits should be backdated to August 2013.

"If it is determined that a member's benefits have been incorrectly denied or terminated, restore his/her BC+ from the date of the incorrect denial or termination through the time period that s/he would have remained eligible." *BEH* 28.9 **Any premiums due for those months must be paid.** *Id.*

CONCLUSIONS OF LAW

The agency incorrectly denied the Petitioner's request to have her son's BadgerCare+ benefits begin August 1, 2013.

THEREFORE, it is

ORDERED

The agency shall issue to Petitioner a new request for verification of her August 2013 income. Immediately upon receipt of that verification the agency shall determine whether Petitioner's son is eligible for benefits for August 2013. The agency shall take all administrative steps to complete these tasks within 18 days of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 4th day of June, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 4, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability